



(703) 590-1234 Tel
(703) 590-0366 Fax

1751 Pinnacle Drive, Suite 1000
Tysons, VA 22102
www.fluet.law

VIA CM/ECF

September 6, 2024

Honorable John L. Sinatra, Jr.
United States District Judge
Robert H. Jackson United States Courthouse
2 Niagara Square
Buffalo, New York 14202

Re: *Heeter et al. v. James et al.* | Case No. 1:24-cv-623-JLS: Joint Letter re Dkt. No. 23.

Dear Judge Sinatra:

We represent the Plaintiffs in this matter and submit this letter in accordance with the Text Order (Dkt. No. 23), dated August 26, 2024. This letter is submitted jointly with Ryan Belka, Esq. of the N.Y.S. Attorney General's office (counsel for Attorney General Letitia James and Superintendent of the State Police Steven James (the "State Defendants")), and Christopher Sasiadek, of the Erie County Law Department (counsel for Acting Erie County District Attorney Michael J. Keane ("DA Keane")).

With respect to the pending motions to dismiss (Dkt. Nos. 12 & 15), the State Defendants and DA Keane propose to withdraw their motions in light of the Amended Complaint, and refile their motions after updating them so that they are directed at the Amended Complaint. Plaintiffs do not object to this proposal, but reserve the ability to seek additional time to oppose if the re-filed motions raise new substantive arguments.

Accordingly, the parties propose the following modification of the Scheduling Order (Dkt. No. 18):

| | |
|----------------------------|--|
| September 13, 2024: | State Defendants and DA Keane to file updated motions to dismiss directed at the Amended Complaint. |
| September 27, 2024: | Plaintiffs' opposition to the State Defendants' and DA Keane's motions to dismiss. |
| October 11, 2024: | The State Defendants and DA Keane to file replies in further support of their motions to dismiss. |
| October 25, 2024: | 10:00 a.m. oral argument on the State Defendants' and DA Keane's motions to dismiss (same as Dkt. No. 18). |



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Prior to submitting this letter, undersigned counsel spoke with James P. Youngs, Esq., who appeared on behalf of Defendant District Attorney William G. Gabor on September 5, 2024. Mr. Youngs represented that Defendant Gabor does not intend to move to dismiss, and does not have any objection to the proposed schedule. At the time of submitting this letter, Defendant District Attorney Sandra Doorley had not yet appeared.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Nicolas J. Rotsko", with a long horizontal line extending to the right.

Nicolas J. Rotsko, Esq.

Fluet

1751 Pinnacle Drive, Suite 1000

Tysons, Virginia 22102

T: (703) 590-1234

F: (703) 590-0366

nrotsko@fluet.law

e-file@fluet.law

cc: Counsel of record via CMECF